

Message Text

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ACTION EA-09

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SUBJ: LAWYERS REACT TO NEW SECURITY REGULATIONS

REF: KL 6000

1. SUMMARY: THE GOM'S DRACONIAN NEW SECURITY MEASURES HAVE BEEN STRONGLY ATTACKED BY MEMBERS OF THE MALAYSIAN BAR AT A LAW CONFERENCE IN KUALA LUMPUR, AND BY BOTH A PRO-GOVERNMENT AND AN OPPOSITION POLITICAL PARTY. TO DATE THE GOM IS DEFENDING THE NEW REGULATIONS AS NECESSARY TO PROTECT THE INNOCENT PUBLIC, BUT THE WIDE PUBLICITY GIVEN THE CRITICISM BY THE NORMALLY PRO-GOVERNMENT MEDIA MAY INDICATE SOME GIVE IN THE GOVT. POSITION. END SUMMARY.

2. THE GOM RECEIVED A VOCIFEROUS AND LARGELY NEGATIVE REACTION TO ITS NEW ESSENTIAL (SECURITY CASES) REGULATIONS, 1975 (SEE REFTTEL FOR DETAILS) DURING THE THIRD MALAYSIAN LAW CONFERENCE HELD
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IN KUALA LUMPUR FROM OCTOBER 10-12. THE SECRETARY OF THE

MALAYSIAN BAR COUNCIL, PARAM CUMARASWAMY, IN A PAPER ENTITLED "...IS THE RULE OF LAW IN QUESTION?" SAID THE NEW REGULATIONS ARE "AS FEARSOME AS THE ANCIENT SPANISH INQUISITION". HE CHARGED INTER ALIA THAT: OVERZEALOUS PROSECUTORS COULD BE TEMPTED TO INVOKE REGULATIONS WHEN THEY FIND INSUFFICIENT EVIDENCE TO PROSECUTE UNDER OTHER LAWS: IT WOULD MAKE IT ALMOST IMPOSSIBLE FOR AN INDIVIDUAL TO PROVE HIS INNOCENCE; IT WOULD MAKE IT IMPOSSIBLE FOR THE DEFENSE TO IMPEACH THE CREDIT OF ANY PROSECUTION WITNESS; IT WOULD ENCOURAGE AGENTS PROVOCATEUR AND BOUNTY HUNTERS. OTHER MEMBERS OF THE BAR CHARGED THAT: "(ID) AMIN'S LAW" HAD COME TO MALAYSIA; AND THAT TRIALS UNDER THE NEW REGULATIONS WOULD BE SIMILAR TO THOSE DURING THE JAPANESE OCCUPATION AND IN NAZI GERMANY. RETIRED CHIEF JUSTICE, TAN SRI H.T. ONG CRITICIZED THE NEW REGULATIONS, BUT SAID IT WAS TOO LATE IN THE DAY TO ASK THE GOVERNMENT TO REPEAL THEM. HE URGED LAWYERS NOT TO GIVE UP THE STRUGGLE WHEN FACED IN COURT WITH "TAINTED EVIDENCE."

3. IN SEPARATE DEVELOPMENTS THE SARAWAK UNITED PEOPLE'S PARTY, A PREDOMINANTLY CHINESE MEMBER OF THE RULING NATIONAL FRONT COALITION, CALLED FOR A REASSESSMENT OF THE INTRODUCTION AND ENFORCEMENT OF THE NEW REGULATIONS, AND THE PENINSULAR MALAYSIA OPPOSITION DEMOCRATIC ACTION PARTY (DAP) HAS ANNOUNCED THAT IT WILL CHALLENGE THE LEGALITY OF THE REGULATIONS IN COURT. THE DAP'S POLITICAL BUREAU DIRECTOR, FAN YEW TENG, TOLD US THAT HE WAS ATTEMPTING TO BRING ALL THE OPPOSITION PARTIES TOGETHER FOR A LEGAL CHALLENGE TO THE REGULATIONS.

4. ALL OF THE ABOVE HAS RECEIVED SURPRISINGLY EXTENSIVE COVERAGE IN THE NEWS COLUMNS OF THE GOVERNMENT-INFLUENCED "NEW STRAITS TIMES" (NST). HOWEVER, AN NST EDITORIAL OCT 15 CHARGED THAT SEVERAL OF THE LAWYERS HAD CLEARLY "LET EMOTION GET THE BETTER OF THEM." NST NOTED THAT "THOSE AT THE BAR WHO HAVE HAD CLOSE CONTACT WITH THE JUDICIARY, THE LEGAL SERVICE, AND THE POLICE SHOULD SURELY HAVE GREATER FAITH IN THEM--FOUNDED ON THEIR OWN EXPERIENCE, AND MALAYSIA'S GOOD RECORD." HOWEVER, IT ACKNOWLEDGED THAT "THIS IS NOT TO DENY THE POSSIBILITY OF THE NEW REGULATIONS EXERCISING A DELITERIOUS INFLUENCE."

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5. SEVERAL KEY GOVERNMENT OFFICIALS, LED BY ATTORNEY GENERAL AND MINISTER OF LAW TAN SRI KADIR, HAVE DEFENDED THE NEW REGULATIONS. KADIR IN AN ADDRESS CLOSING THE LAW CONFERENCE CALLED THE REGULATIONS AN ATTEMPT TO PROVIDE JUSTICE NOT ONLY TO THE ACCUSED, BUT TO THE SUFFERING PUBLIC. "THE POLICY OF THE LEGISLATIVE AUTHORITY MUST CATER TO THE NEED OF JUSTICE FOR THE PUBLIC AT LARGE," HE SAID. "IT CANNOT BE RENDERED SUBSERVIENT TO TUTELAGE BY SOME MEMBER OF THE LEGAL PROFESSION."

HOWEVER, IN A FOOTNOTE KADIR ADDED THAT THE GOVERNMENT WOULD
"CONSIDER" RECOMMENDATIONS MADE BY THE BAR.

6. COMMENT: AS OF THIS TIME THERE IS NO HARD EVIDENCE THAT
THE GOM HAS DECIDED TO RETREAT FROM ITS DRACONIAN NEW SECURITY

MEASURES, BUT THE WIDE PUBLICITY GIVEN TO CRITICISMS OF THE
MEASURES BY NORMALLY PRO-GOVERNMENT SOURCES MAY BE AN INDICA-
TION THAT AT LEAST SOME OF THEIR MOST OBJECTIONABLE FEATURES
MAY BE MODIFIED.
UNDERHILL

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